

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

A-9764

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/783,235

Filed

02/20/2004

First Named Inventor

Dean F. Jerding

Art Unit

2623

Examiner

Peng, Fred H.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/rrs/

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

Signature

Randy R. Schoen

Typed or printed name

☐ attorney or agent of record.

Registration number \_\_\_\_\_

(770) 933-9500

Telephone number

☒ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 64,440

2 Jan 09

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below.

☒ \*Total of 1 forms are submitted.

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Confirmation No.: 7398

**Jerding et al.**

Group Art Unit: 2623

Serial No.: 10/783,235

Examiner: Peng, Fred H

Filed: February 20, 2004

Docket No.: A-9764

For: **CHANNEL CONTROL SYSTEM FOR EXITING FROM AN INTERACTIVE  
PROGRAM GUIDE**

**REMARKS IN SUPPORT OF**  
**PRE-APPEAL BRIEF CONFERENCE**

Mail Stop Appeal Brief  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants submit the following remarks in support of a Request for a Pre-Appeal Brief  
Conference.

### REMARKS

Claims 1-8 are currently pending and subject to a final rejection based on the final Office Action dated October 2, 2008. For purposes of the pre-appeal brief conference, Applicants respectfully submit that there exists clear cases of error and the omission of essential elements in this rejection, supported by the evidence in the record. Although Applicants believe errors in the rejection are evident for all claims, for purposes of conciseness in the pre-appeal brief conference, Applicants address the errors in the 102(e) rejection using a representative sample of the claims, and in particular, independent claim 1.

#### **I. Rejection of Independent Claims Under 35 U.S.C. § 102(e)**

Claim 1 recites (with emphasis added):

1. A method for providing video content via a television, comprising the steps of:
  - providing a user with a menu that includes a plurality of options corresponding to respective control settings for controlling functionality of a channel navigation key, wherein the menu is displayed via the television;
  - receiving a first user input corresponding to ***one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG)*** having a plurality of television program listings;
  - providing the IPG;
  - receiving a second user input corresponding to the channel navigation key; and
  - responsive to receiving the second user input and responsive to having previously received the first user input:
    - terminating providing of the IPG; and
    - providing a video presentation.

The final Office Action alleges on page 2 that "the Applicant's emphasized features of 'one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG)' can be interpreted as 'options to terminate a specific function or feature within the IPG instead of terminating the IPG itself'; hence the teaching of Alexander with option to unlock the lock function of video display in the IPG reads into the Applicant's claimed features." Applicants respectfully disagree, and believe this interpretation to be an error in fact. Specifically, Applicants

submit that terminating a function or feature of an IPG is not the same as "terminat[ing] provision of an interactive program guide (IPG)" as recited in claim 1. Nor does claim 1 include the limitation of terminating a function or feature of an IPG. As such, there is a clear error in fact regarding the claim interpretation of the final Office Action.

Furthermore, the final Office Action alleges on page 3 that the above-emphasized features correspond to the select unlock button, and in particular alleges that the "select unlock button terminates lock state and entering unlock state." Applicants respectfully disagree. The unlock button, for instance as shown in FIG. 4B, does not provide any functionality that enables termination of an IPG. Indeed, *Alexander* discloses the functionality presented by the unlock and lock button in column 4, lines 5-12 as follows:


If the viewer selects the "lock" status, the last channel to which the tuner was set in the PIP Window continues to be displayed regardless of the actions exercised by the viewer. In the unlocked status, the channel highlighted by cursor 36 in Grid Guide 22 is displayed if the Grid Guide is displaying currently telecast programs and the last currently telecast channel that was highlighted is displayed if the Grid Guide is displaying future programs.

As is evident from the above-cited section of *Alexander*, the alleged equivalent to the claimed "options" has nothing to do with the termination of the IPG, and accordingly, fails to support an allegation of anticipation. Accordingly, for at least the reasons presented above, Applicants respectfully request that the rejection of claim 1 be withdrawn.

**CONCLUSION**

For at least the reasons set forth above, favorable reconsideration and allowance, or the re-opening of prosecution on the merits of the present application and all pending claims are hereby courteously requested.

Respectfully submitted,

By:   
Randy R. Schoen, Reg. No. 62,440

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**  
600 Galleria Parkway, NW  
Suite 1500  
Atlanta, Georgia 30339-5948  
Tel: (770) 933-9500  
Fax: (770) 951-0933